

REMARKS*Supplemental Response*

Applicant requests entry of the foregoing amendments to the claims as Applicant believes the amended claims more clearly define the relationship of the various elements. Applicant further believes that entry of the amendments is proper where the prior response mailed September 8, 2009 has not yet been taken up for examination. While Applicant believes that no fee is required for entry of the Supplemental Response given that a full and complete response to the Office Action mailed June 8, 2009 was filed within the shortened statutory period for response, please deem this a petition for extension of time if necessary to enter this response.

Applicant contends that the arguments as presented in the telephonic Examiner Interview of Wednesday July 29, 2009 and as documented in Applicant's prior response mailed September 8, 2009 remain valid in relation to the amended claims as presented herein, and therefore continue to support their allowability.

In the Claims

Claims 103-108, 152, 153, 154, 156, 163, 165-170 and 174-177 are amended herein. Claims 157-159 and 171-173 are canceled hereby without prejudice or disclaimer. Applicant reserves the right to pursue the same or substantially similar subject matter in one or more continuing applications.

Claim Rejections Under 35 U.S.C. § 102

Claims 103-108, 112, 152-153, 156-168, 170-175 and 177 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ballantyne, et al. (U.S. Patent No. 5,867,821). Claims 157-159 and 171-173 are canceled hereby in view of other amendments. Applicant respectfully traverses as to the remaining claims.

As noted in the Examiner Interview Summary, the account/billing information of Ballantyne et al. is asserted to correspond to Applicant's bid amount in claims 103 and 107, and the channels of Ballantyne et al. are asserted to correspond to Applicant's links in claims 103

and 107. Claim 103 as amended recites, in part, “wherein the computer system supplies a third computer of a third user a list of links and wherein the list of links is ordered by the computer system, responsive to the software and to at least the bid amounts associated with the links.”

Claim 107 as amended recites, in part, “wherein the listing of N links is supplied by the computer system to a third computer of a third user and wherein the listing of N links is ordered by the computer system, responsive to the computer readable instructions and at least the bid amounts associated with the links.” Applicant contends the channels of Ballantyne et al. are not purported to be ordered responsive to its account/billing information. Instead, the channels of Ballantyne et al. are equivalent to CATV channels. See, Ballantyne et al., column 5, lines 16-19 (“Network channels are assigned in accordance with the service being provided, a channel being 6 MHz of bandwidth, equivalent to an analog CATV channel.”). Applicant contends there is no basis to assert that a list of network channels in Ballantyne et al. is ordered by anything other than numerical order, and certainly no basis to assert that they would be ordered based on any account/billing information. Because numerical ordering of CATV channels is notoriously well known, ordering of Ballantyne et al.’s network channels based on account/billing information cannot be said to necessarily flow from its teachings. See, MPEP § 2112 (“In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)). As such, Applicant contends that Ballantyne et al. cannot teach or render obvious at least this element of claims 103 and 107.

Applicant further contends that the term “bid amount” necessarily imports a market component. See, Substitute Specification, page 42, first full paragraph, last sentence (“This process allows for the continuous negotiation of the bid price, i.e., it creates a free market environment.”). Thus, even if the channel numbers of Ballantyne et al. are used to sort the network channels, or a patient name or ID is used to sort a list a medical records of Ballantyne et al., this basis of ordering cannot correspond to Applicant’s bid amount.

In view of the foregoing, Applicant contends that claims 103 and 107 are patentably distinct from the cited reference. As claims 104-106, 152, 153 and 156-165 include all patentable elements of claim 103, and claims 108, 112, 166-168, 170, 174, 175 and 177 include

all patentable elements of claim 107, these claims are also believed to be allowable. Applicant thus respectfully requests reconsideration and withdrawal of the rejections, and allowance of claims 103-108, 112, 152, 153 and 156-168, 170, 174, 175 and 177.

Withdrawn Claims

Applicant notes that withdrawn claims 154 and 155 include all patentable elements of allowable elected claim 103, and withdrawn claims 169 and 176 include all patentable elements of allowable elected claim 107. As such, claim 103 is necessarily generic to claims 154 and 155 and claim 107 is necessarily generic to claims 169 and 176. Applicant notes that it is entitled to examination of all claims that are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR § 1.141. Applicant thus respectfully requests rejoinder, examination and allowance of withdrawn claims 154, 155, 169 and 176.

New Claims

Applicant has added claims 197-212. Applicant contends that as claims 197-204 include all patentable elements of claim 103, and claims 205-212 include all patentable elements of claim 107, these new claims are allowable for at least the same reasons as presented with respect to claims 103 and 107, respectively. Applicant thus requests entry, examination and allowance of new claims 197-212.

CONCLUSION

Claims 103-108, 152, 153, 154, 156, 163, 165-170 and 174-177 are amended herein. Claims 157-159 and 171-173 are canceled hereby without prejudice or disclaimer. Claims 103-108, 112, 152, 153 and 156-168, 170, 174, 175 and 177 are currently pending. Claims 154, 155, 169 and 176 are withdrawn, but Applicant has requested rejoinder.

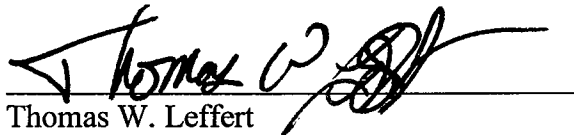
In view of the above remarks, Applicant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 501373.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2204.

Respectfully submitted,

Date:

14 OCT 09



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